

In the United States Court of Federal Claims

No. 15-767C

(E-Filed: August 4, 2022)

ACLR, LLC,)
)
Plaintiff,)
)
v.)
)
THE UNITED STATES,)
)
Defendant.)

REVISED PRE-TRIAL SCHEDULING ORDER

On August 4, 2022, the parties filed a joint motion to amend the court's May 3, 2022 pre-trial scheduling order, ECF No. 142, in this case.¹ See ECF No. 145. For good cause shown, the clerk's office is directed to **FILE** the parties' joint motion to amend, ECF No. 145, by leave of the court; and once filed, the parties' joint motion is **GRANTED**.

Accordingly, the court hereby establishes the parties' amended pre-trial schedule, as follows:

(1) **Disclosure of Witnesses, Exhibits, and Deposition Testimony**

- (a) **Plaintiff's Witness & Exhibit Lists.** On or before **July 13, 2022**, pursuant to Appendix A, ¶¶ 13(a) and (b), plaintiff shall **FILE lists** of the exhibits that it expects to offer into evidence at trial and lists of the persons whom each party expects to call as witnesses at trial. The lists shall include the full name of each person, a brief description of the subject matter of the person's testimony and the expected length of examination.

¹ The joint motion to amend was not properly signed by defendant's attorney of record, and plaintiff's attorney of record in this case. Additionally, the motion was not electronically filed in the court's case management/electronic case filing (CM/ECF) system by defendant's attorney of record. See ECF No. 145 at 3. For the reasons set forth in the motion, the court will file the parties' joint motion by leave of the court.

Pursuant to the requirements of Appendix A, Part VI, ¶ 15, if expert witness testimony is to be presented, the material described in RCFC 26(a)(2)(B) shall be filed.

- (b) **Defendant's Witness & Exhibit Lists.** On or before **August 19, 2022**, pursuant to Appendix A, ¶¶ 13(a) and (b), defendant shall **FILE lists** of the exhibits that it expects to offer into evidence at trial and lists of the persons whom each party expects to call as witnesses at trial. The lists shall include the full name of each person, a brief description of the subject matter of the person's testimony and the expected length of examination. Pursuant to the requirements of Appendix A, Part VI, ¶ 15, if expert witness testimony is to be presented, the material described in RCFC 26(a)(2)(B) shall be filed.
 - (c) **Defendant's Objections.** On or before **August 24, 2022**, defendant shall **FILE a list** any of plaintiff's proposed witnesses or exhibits from its July 13, 2022 lists to which there are anticipated objections (which are neither binding nor exclusive) and the basis therefor, keyed to the applicable Federal Rules of Evidence.
 - (d) **Plaintiff's Objections.** On or before **September 21, 2022**, plaintiff shall **FILE a list** any of defendant's proposed witnesses or exhibits from its August 5, 2022 lists to which there are anticipated objections (which are neither binding nor exclusive) and the basis therefor, keyed to the applicable Federal Rules of Evidence.
- (2) **Initial Meeting.** On or before **August 31, 2022**, pursuant to Appendix A, ¶ 13(c), counsel for the parties shall **meet** by telephone or in person: (1) to disclose any deposition transcripts that each party expects to move to introduce at trial; (2) to resolve, if possible, any objections to the admission of testimony (including deposition testimony) or exhibits; (3) to disclose all contentions as to applicable facts and law; (4) to engage in good-faith, diligent efforts to stipulate and agree to facts; (5) to consider whether to submit this case to the court for resolution upon the basis of a documentary record submitted by the parties; and, (6) to exhaust all possibilities of settlement.
- (a) By **September 7, 2022**, or within seven days after the meeting described in the preceding paragraph, whichever

occurs earlier, counsel for the parties shall **FILE** the **joint certification** required by Appendix A, ¶ 13(d).

- (3) **Motions in Limine.** If applicable, on or before **September 23, 2022**, the parties are directed to **FILE** any **motions in limine**.
 - (a) **Responses.** If applicable, on or before **October 7, 2022**, the parties shall **FILE** any **responses** to any motions in limine; and
 - (b) **Replies.** If applicable, On or before **October 19, 2022**, the parties shall **FILE** any **replies** to their motions in limine.
- (4) **Plaintiff's Pretrial Filings.** On or before **August 24, 2022**, pursuant to Appendix A, Part VI, ¶¶ 14(a) and (c), 15 and 16, plaintiff shall **FILE** the following:
 - (a) **Memorandum of Contentions of Fact and Law** in full and comprehensive compliance with the requirements set forth in Appendix A, Part VI, ¶ 14(a) and (c).
 - (b) In addition to the damages disclosure required by RCFC 26(a)(1)(A)(iii) and with respect to exhibits proposed in accordance with Appendix A, ¶ 13(a), any and all items and figures from books of account or other records, which are to be introduced in evidence in this matter, and any calculations or estimates derived therefrom, on separate **schedules or summaries**, such as will permit their pretrial verification by examination or audit or also serve to obviate the introduction into evidence of voluminous original materials. Any schedule or summary provided in this regard shall be accompanied by a statement describing the source(s) for the items or figures listed (ledgers, journals, payrolls, invoices, checks, time cards, etc.), the locations(s) of the source(s), the name and address of the person(s) who prepared each schedule or summary and who will be made available to the opposing party to provide information and explanations required for verification of the listed items or figures no later than twenty days prior to the pretrial conference.
 - (c) Plaintiff's **motion for leave to file deposition transcripts**, if applicable.
- (5) **Defendant's Pretrial Filings.** On or before **September 7, 2022**, pursuant to Appendix A, Part VI, ¶¶ 14(a) and (c), 15 and 16,

defendant shall **FILE** the following:

- (a) **Memorandum of Contentions of Fact and Law** in full and comprehensive compliance with the requirements set forth in Appendix A, ¶14(b) and (c).
 - (b) In addition to the damages disclosure required by RCFC 26(a)(1)(A)(iii) and with respect to exhibits proposed in accordance with Appendix A, ¶ 13(a), any and all items and figures from books of account or other records, which are to be introduced in evidence in this matter, and any calculations or estimates derived therefrom, on separate **schedules or summaries**, such as will permit their pretrial verification by examination or audit or also serve to obviate the introduction into evidence of voluminous original materials. Any schedule or summary provided in this regard shall be accompanied by a statement describing the source(s) for the items or figures listed (ledgers, journals, payrolls, invoices, checks, time cards, etc.), the locations(s) of the source(s), the name and address of the person(s) who prepared each schedule or summary and who will be made available to the opposing party to provide information and explanations required for verification of the listed items or figures no later than twenty days prior to the pretrial conference.
 - (c) Defendant's **motion for leave to file deposition transcripts**, if applicable. Any response or reply deadlines shall be established pursuant to the court's rules.
- (6) **Stipulations and Joint Exhibits.** The parties are directed to **CONFER** for the purpose of reaching agreement upon all facts which may be the subject of a stipulation and upon all exhibits which may be consolidated as joint exhibits. The parties shall endeavor to designate as many Joint Exhibits (JX) as possible.
- (a) Pursuant to Appendix A, Part VI, ¶¶ 17-18, on or before **October 26, 2022**, counsel for the parties are directed to **FILE** their agreed-upon **stipulation of facts** and **joint exhibit list** that identifies each exhibit by a joint exhibit number and description.
- (7) **Pretrial Conference.** The **pretrial conference** shall be **HELD** on Monday, **November 2, 2022**, at **11:00 a.m.**, eastern time, virtually via Zoom for Government. An email containing the link for the pretrial conference will issue in due course.

- (8) **Trial.** The parties have requested that the court hold the trial in this matter from November 9-18, 2022, “with additional trial days to occur during the week of November 28, 2022.” ECF No. 141 at 1. Accordingly, **trial** shall be **HELD** on Wednesday, **November 9, 2022 at 9:30 a.m.**, eastern time, virtually via Zoom for Government. The hours of daily proceedings shall be determined at the pretrial conference. The trial will continue until November 18, 2022, with additional days of trial to occur the week of November 28, 2022, until the presentation of evidence and argument is complete, but not beyond Wednesday, **November 30, 2022.**

IT IS SO ORDERED.

s/Patricia E. Campbell-Smith
PATRICIA E. CAMPBELL-SMITH
Judge